

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED

JAN 15 2010

JOHN E. CORCORAN, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

EUGENE ROSS COUSINS,

Defendant.

) Case No. 5:06CR00008

) (Case No. 5:09CV80169)

) OPINION AND ORDER

) By: Hon. Glen E. Conrad

) United States District Judge

)

This closed case is before the court on Defendant Eugene Ross Cousins' motion for reconsideration, which he also seeks to amend. In addition, he moves for appointment of counsel. By memorandum opinion and order, entered December 7, 2009, the court denied Cousins' motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, finding that Cousins entered a valid plea agreement waiver of his right to bring any of the claims in his § 2255 motion. Cousins argues that he is entitled to receive a free copy of the guilty plea hearing transcript on which the court relied in reaching this decision. Although Cousins did not request a copy of the transcript at any time prior to the court's entry of judgment, in the interest of justice, the court will grant him a free transcript and an opportunity to make any additional arguments in response to the court's opinion, based on the transcript.

Cousins' motion for appointment of counsel must be denied at this time, however. The court has the discretion to appoint counsel in a § 2255 action upon finding that "the interests of justice so require." See Criminal Justice Act, 18 U.S.C. § 3006A(a)(2)(B). Upon a review of the record, the court finds that petitioner has not shown any exceptional circumstances necessitating appointment of counsel at this time.

For the stated reasons, it is hereby

**ORDERED**

that the defendant's motion to amend his motion for reconsideration (Dkt. Nos. 162 and 163) is **GRANTED**; the motion for reconsideration as amended is **TAKEN UNDER ADVISEMENT**; the clerk is **DIRECTED** to provide the defendant with a free copy of the plea hearing transcript (Dkt. No. 158); and the defendant shall submit any supplement to his motion to reconsider on or before February 8, 2010.

The Clerk is directed to send a copy of this order to the defendant and to counsel of record for the government.

ENTER: This 15<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
United States District Judge